

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

LISA STEVENS,

Plaintiff

v.

Case No.:

SOUTHERN MAINE ORAL AND
MAXILLOFACIAL SURGERY, P.A.,

and

KATHI LUCAS,

Defendants

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, Defendants file this Notice of Removal of the above-captioned action from the Superior Court in Androscoggin County, Maine, Docket No. AUBSC-CV-2020-111, to the United States District Court for the District of Maine in Portland pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446. In support of the Notice of Removal, Defendants state as follows:

1. On August 31, 2020, Plaintiff filed a Complaint in the Superior Court, Androscoggin County, State of Maine, captioned *Lisa Stevens v. Southern Maine Oral and Maxillofacial Surgery, P.A. and Kathi Lucas*, Civil Action Docket No. CV-20-111 (State Court Action). A true and accurate copy of the Complaint is attached as **Exhibit A**. Removing Defendants first received a Summons and copy of the Complaint on August 31, 2020. A copy of the Summons for Southern Maine Oral and Maxillofacial Surgery, P.A. is attached as **Exhibit B**, and a copy of the Summons for Kathi Lucas is attached as **Exhibit C**. A copy of the

Summary Sheet is attached as **Exhibit D**. The Acceptance and Acknowledgement of Service of Process for Southern Maine Oral and Maxillofacial Surgery, P.A. is attached as **Exhibit E**. The Acceptance and Acknowledgement of Service of Process for Kathi Lucas is attached as **Exhibit F**. Defendants' Notice of Filing of Notice of Removal is attached as **Exhibit G**. Defendants' Answer to Plaintiff's Complaint, dated September 11, 2020, is attached as **Exhibit H**.

2. Plaintiff's Complaint contains five counts: (I) Disability Discrimination under the Maine Human Rights Act, 5 M.R.S. § 4571; (II) Disability Discrimination under the Americans with Disabilities Act, 42 U.S.C. § 12112; (III) Whistleblower Discrimination under the Whistleblowers' Protection Act, 26 M.R.S. § 833(a)(A); (IV) Retaliation under the Family Medical Leave Act, 29 U.S.C. § 2615(a); and (V) Retaliation under the Maine Family Medical Leave law, 26 M.R.S. § 847(2).

3. Removal is appropriate in this case pursuant to 28 U.S.C. § 1441 because Defendants have satisfied the procedural requirements for removal, and this Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1441, 1331, and 1367.

I. Defendants Have Satisfied the Procedural Requirements for Removal

1. This Notice of Removal is being timely filed within thirty (30) days after removing Defendants received a copy of the pleadings setting forth the claim for relief upon which the action is based, as required by 28 U.S.C. § 1446(b).

2.. Defendants are contemporaneously filing a certified copy of the docket record from the Androscoggin County Superior Court with this Court.

3. Venue is proper because the Androscoggin County Superior Court is located within the District of Maine, and, therefore, venue is proper in this Court because it is "the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

4. As the State Court Action was brought in Androscoggin County, this matter is removed to the United States District Court in Portland, Maine pursuant to Local Rule 3(b).

5. The written notice required by 28 U.S.C. § 1446(d) will be promptly filed in the Maine Superior Court, Androscoggin County, and served on Plaintiff.

II. Federal Question and Supplemental Jurisdiction

1. This Court has original subject-matter jurisdiction under the federal-question jurisdictional statute, 28 U.S.C. § 1331, and/or supplemental subject-matter jurisdiction under 28 U.S.C. § 1367, of all the claims in the Complaint.

2. Counts II and IV of the Complaint arise under federal law because the following substantial questions of federal law are set forth on the face of the Complaint:

a. Whether the Defendant Southern Maine Oral and Maxillofacial Surgery, P.A. discriminated against the Plaintiff on the basis of disability by failing to provide her with a reasonable accommodation or by making harassing remarks about her need for accommodation, in violation of 42 U.S.C. § 12112?

b. Whether the Defendants retaliated against Plaintiff for her exercise of her rights under the Family and Medical Leave Act in violation of 29 U.S.C. § 2615?

3. Defendants dispute each of the aforementioned issues of federal law, and resolution of Plaintiff's claims will turn substantially on the resolution of the disputed federal issues.

4. Counts I, III, and V of the Complaint are removable because they are within the supplemental jurisdiction of the Court under 28 U.S.C. § 1367.

5. Based on all of the foregoing, Defendant respectfully submits that this case is removable under 28 U.S.C. § 1441(a).

WHEREFORE, Defendants respectfully give notice that the State Court Action captioned

Lisa Stevens v. Southern Maine Oral and Maxillofacial Surgery, P.A. and Kathi Lucas, Civil Action Docket No. CV-20-111 has been removed from the Maine Superior Court, Androscoggin County, to the United States District Court for the District of Maine pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, and request that this Court assume jurisdiction over this action.

Dated at Portland, Maine this 11th day of September, 2020.

NORMAN, HANSON & DeTROY, LLC
/s/ Christopher C. Taintor
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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2020, I electronically filed the foregoing Notice of Removal together with a true copy of Exhibits A, B, C, D, E, F, G, and H referenced therein with the Clerk of Court by electronic mail to newcases.portland@med.uscourts.gov. I served the same upon the following:

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